

# HOUSE BILL No. 1096

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 14-8-2; IC 14-24-12.

**Synopsis:** Control of certain plants. Prohibits the planting of rosa multiflora, autumn olive, and russian olive (controlled plants) in a highway right-of-way and provides for local government control of controlled plants. Requires the state to remove or pay for the removal of controlled plants that have spread from a state highway right-of-way to other property. Allows a local government to bill a property owner for the costs incurred by the local government in cutting or removing a controlled plant.

**Effective:** July 1, 2002.

## Cherry

January 8, 2002, read first time and referred to Committee on Rules and Legislative Procedures.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## HOUSE BILL No. 1096

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 14-8-2-55.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2002]: **Sec. 55.5. "Controlled plant", for purposes of IC 14-24-12,**  
4 **has the meaning set forth in IC 14-24-12-1.5.**

5       SECTION 2. IC 14-8-2-289, AS AMENDED BY P.L.52-2001,  
6 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2002]: Sec. 289. "Unit of local government":

8           (1) for purposes of IC 14-12-1, has the meaning set forth in  
9 IC 14-12-1-3; and

10          (2) for purposes of IC 14-22-10 **and IC 14-24-12**, means a:

- 11           (A) county;  
12           (B) city;  
13           (C) town; or  
14           (D) township;  
15       located in Indiana.

16       SECTION 3. IC 14-24-12-1.5 IS ADDED TO THE INDIANA  
17 CODE AS A **NEW** SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2002]: **Sec. 1.5. As used in this section, "controlled plant" means any of the following:**

- (1) Rosa multiflora.**
- (2) Autumn olive.**
- (3) Russian olive.**

SECTION 4. IC 14-24-12-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 4.5. As used in this chapter, "unit of local government" has the meaning set forth in IC 14-8-2-289(2).**

SECTION 5. IC 14-24-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 5. (a)** Except as provided in section 6 of this chapter, a person may not plant any variety of *rosa multiflora* in Indiana unless the person has a permit issued by the division director authorizing the planting of the variety of *rosa multiflora*.

**(b)** The only purpose for which the division director may issue a permit authorizing the planting of *rosa multiflora* under subsection (a) is for the use of *rosa multiflora* in controlled experiments.

**(c) This section does not authorize:**

- (1) the planting of a variety of *rosa multiflora*; or**
- (2) the issuance of a permit authorizing the planting of a variety of *rosa multiflora*;**

**in a highway right-of-way in violation of section 5.5(a) of this chapter.**

SECTION 6. IC 14-24-12-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 5.5. (a) A person may not plant a controlled plant in a highway right-of-way.**

**(b) If a controlled plant has been planted in a state highway right-of-way and the controlled plant encroaches upon property outside the state highway right-of-way, the state shall, at the request of the property owner, either:**

- (1) enter the property and eradicate the controlled plant; or**
- (2) assume the costs incurred in the removal of the controlled plant.**

SECTION 7. IC 14-24-12-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 10. (a) A unit of local government may require a person who owns real property located within the unit of local government or an easement, a right-of-way, or another, similar interest in real property located within the unit of local government to:**

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1 (1) control and contain; or  
 2 (2) remove;  
 3 any controlled plant growing on the property.  
 4 (b) A unit of local government taking action under subsection  
 5 (a) shall issue a written notice requiring the owner of property or  
 6 of an interest in property described in subsection (a) to:  
 7 (1) control and contain; or  
 8 (2) remove;  
 9 any controlled plant growing on the property.  
 10 (c) A notice issued under subsection (b) shall be:  
 11 (1) sent by certified or registered mail addressed to the latest  
 12 address of the person who owns the property or property  
 13 interest described in subsection (a); or  
 14 (2) served personally on the person by the county sheriff.  
 15 (d) Each unit of local government shall designate a controlled  
 16 plant contact person for that unit of local government. The contact  
 17 person is responsible for responding to reports from the public of  
 18 a controlled plant problem on property located within the unit of  
 19 local government.  
 20 SECTION 8. IC 14-24-12-11 IS ADDED TO THE INDIANA  
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 22 [EFFECTIVE JULY 1, 2002]: **Sec. 11. (a) A unit of local government**  
 23 **that issues a notice under section 10(b) of this chapter may**  
 24 **recommend a program to control and contain a controlled plant**  
 25 **growing on property located within the unit of local government.**  
 26 **(b) If a person to whom a notice is issued under subsection (b)**  
 27 **fails to begin a program recommended by the unit of local**  
 28 **government to control and contain or to remove a controlled plant**  
 29 **within the time prescribed in section 10 of this chapter, the unit of**  
 30 **local government may pay for the chemicals and equipment used**  
 31 **and the labor performed in cutting or destroying the controlled**  
 32 **plant under this chapter. The unit of local government shall pay for**  
 33 **the labor at a rate per hour to be fixed by the unit of local**  
 34 **government commensurate with local hourly wages.**  
 35 **(c) When the work has been performed, the person doing the**  
 36 **work shall file an itemized bill for the work with the unit of local**  
 37 **government. When the bill has been approved, the unit of local**  
 38 **government shall pay the bill from the unit's general fund. The unit**  
 39 **of local government shall certify the cost of the work, adding to the**  
 40 **bill twenty dollars (\$20) per day for each day that a member or**  
 41 **agent of the unit of local government supervises the performance**  
 42 **of the services required under this chapter as compensation for**

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1 services. The certified statement of costs must include a description  
2 of the real estate on which the labor was performed.

3 (d) The certified statement of costs prepared under subsection  
4 (c) must be:

5 (1) sent by certified mail to; or

6 (2) personally served on;

7 the owner or person possessing the real property on which the  
8 controlled plant is cut or destroyed under subsection (b). The  
9 certified statement must be mailed to the auditor of state for any  
10 real property owned by the state or to the fiscal officer of another  
11 unit of local government for real property owned by another unit  
12 of local government. The statement must request that the person  
13 pay the costs of performing the service under subsection (b) to the  
14 unit of local government.

15 (e) If the owner or person in possession of the property does not  
16 pay the amount provided in the statement within ten (10) days  
17 after receiving the statement under subsection (d), the unit of local  
18 government shall file a copy of the certified statement in the office  
19 of the county auditor of the county where the real property is  
20 located. The county auditor shall place the amount claimed in the  
21 certified statement on the tax duplicate of the real property. Except  
22 as provided in subsections (g) through (i), the amount claimed shall  
23 be collected as taxes are collected.

24 (f) After an amount described in subsection (e) is collected, the  
25 funds must be deposited in the general fund of the unit of local  
26 government.

27 (g) This subsection applies to real property owned by the state.  
28 The auditor of state shall issue a warrant to pay the amount set  
29 forth in the certified statement of costs for real property owned by  
30 the state and shall charge the appropriate fund for the amount.

31 (h) This subsection applies to real property owned by a unit of  
32 local government. The fiscal officer of the unit of local government  
33 shall make the necessary appropriation from the appropriate fund  
34 to pay the amount set forth in the certified statement of costs for  
35 real property owned by the unit of local government.

36 (i) This subsection applies to real property that is exempt from  
37 property taxation. The owner of the tax exempt real property shall  
38 pay the amount set forth in the certified statement of costs for the  
39 tax exempt real property. If the owner of the tax exempt real  
40 property fails to pay the amount required by this chapter, the  
41 owner is ineligible for the property tax exemption and the  
42 department of local government finance shall deny the property

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1      **tax exemption for the real property.**

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